

The Appeals Board finds claimant has failed to prove by a preponderance of the credible evidence that he gave notice, pursuant to K.S.A. 44-520, of his alleged accidental injury or that he had just cause for failing to provide notice within 10 days as is required by the statute.

Claimant alleged a series of accidents through March 27, 1997, his last day worked before he underwent carpal tunnel surgery on March 28, 1997. It is significant that while claimant began working for respondent on August 7, 1996, his upper extremity carpal tunnel left elbow and shoulder condition preexisted his start date with respondent by several months. The numbness and tingling in claimant's left upper extremity originated on January 30, 1996, when he was struck by a hammer. The February 12, 1996, medical records of Dr. Tyrone D. Artz indicate contemplation of carpal tunnel surgery on claimant's left wrist and a possible interior transposition of his left ulnar nerve at the elbow.

When claimant discussed his problems with his supervisors he advised he had a childhood disease and brittle bones, but denied any work connection with his ongoing symptomatology.

K.S.A. 44-520 requires notice of an accident stating the time and place and particulars thereof within 10 days after the date of accident. The 10-day notice shall not bar any proceedings if the claimant can show that failure to notify pursuant to the statute was due to "just cause."

In this case there is substantial evidence to indicate that claimant's condition long preexisted his employment with respondent and that the limited information provided to respondent did not constitute notice of an accidental injury arising out of and in the course of his employment. Further, the evidence provided by claimant fails to provide just cause for claimant's failure to so notify respondent of his alleged accidental injury. As such, the Appeals Board finds the Order of Administrative Law Judge Nelsonna Potts Barnes denying claimant benefits as a result of his failure to comply with the provisions of K.S.A. 44-520 should be, and is hereby, affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated August 19, 1997, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October 1997.

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BOARD MEMBER

c: Dale V. Slape, Wichita, KS  
M. Doug Bell, Coffeyville, KS  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Director